

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

G.G. MARCK AND ASSOCIATES, INC.,

Plaintiff,

Case No. 3:05 CV 7391

-vs-

O R D E R

JAMES PENG, et al.,

Defendant.

KATZ, J.

Defendants have filed a motion requesting the Court to issue an order directing Plaintiff to remove its judgment liens. (Doc. No. 296). Plaintiff has filed a response and Defendants a reply. For the reasons briefly stated hereafter, Defendants' motion will be denied.

The Court has previously addressed many of the issues involved in this particular facet of this case. The Court has previously issued an order approving a bond in the amount of \$2 million filed on behalf of Defendants; related to that was the subordination of the subject liens to permit the financing necessary to achieve the issuance of the supersedeas bond required by the Court during appeal. Defendants' request would require the Court to apply the stay previously granted retroactively and to order the liens imposed by the filing of the certificate of judgment to be released. The Court agrees with Plaintiff that such an order would directly contradict the plain language of Fed. R. Civ. P. 62(d).

Further, in the motion and memoranda filed by Defendants there are not circumstances cited which would suggest that the continuation of the liens, subordinate to the filings of those financing the supersedeas bond, in any way impedes the ability of Defendants to continue their

operations. Should such an instance take place in the future and the Court is provided with evidence of a specific showing that such an order is necessary, the Court will revisit that issue. But at this juncture no such showing has been made.

Therefore, Defendants' motion to order Plaintiff to remove its judgment liens is denied.

IT IS SO ORDERED.

s/ David A. Katz  
DAVID A. KATZ  
U. S. DISTRICT JUDGE